

In The Court Of Appeal Of The State Of California 29  
Sixth Appellate District  
San Jose, California

TUESDAY, FEBRUARY 13, 2001

H020293 PEOPLE v. HAMPTON

The judgment is affirmed. (not published)  
(Cottle, P.J.; We concur: Elia, J., Mihara, J.)  
Filed February 13, 2001

WEDNESDAY, FEBRUARY 14, 2001

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Cottle, P. J.; Elia, J.; Mihara, J.; and W. Magsaysay, Deputy Clerk.

H020635 PEOPLE v. COOK

Cause called. No appearance is made by either counsel. Counsel for appellant having previously waived oral argument due to illness, cause ordered submitted.

H020583 PEOPLE v. ANDERSON

Cause called and argued by C. Zadik Shapiro appearing for Appellant and by Margo J. Yu, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H020663 PEOPLE v. CARRILLO

Cause called and argued by Julian Alexander Gross appearing for Appellant and by Nanette Winaker, Deputy Attorney General, appearing for Respondent. Cause ordered submitted. Court recesses until 1:30 p.m.

The Court reconvened at 1:30 p.m in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Cottle, P. J.; Elia, J.; Mihara, J.; and R. W. Norvelle, Deputy Clerk.

In The Court Of Appeal Of The State Of California 30  
Sixth Appellate District  
San Jose, California

Wednesday, February 14, 2001 (continued)

H019440 PEOPLE v. MARTINEZ

Cause called and argued by Sharon Fleming appearing for Appellant and by Christopher Grove, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H021359 PEOPLE v. JONATHAN H., a minor

Cause called and argued by Gary K. Dubcoff appearing for Appellant and by Martin S. Kaye, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H020233 PEOPLE v. GONZALEZ

Cause called and argued by Kathy Chavez appearing for Appellant and by Gregory A. Ott, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H020688 AVAKIAN v. NEZHAT, et al.

Cause called and argued by Kevin Kevorkian appearing for Appellant and by Tyler Draa appearing for Respondents. Cause ordered submitted. Court is adjourned.

H020183 PEOPLE v JOHNSON

The judgment is affirmed. (not published)  
(Premo, Acting P.J.; We concur: Bamattre-Manoukian, J.,  
Wunderlich, J.)  
Filed February 14, 2001

THURSDAY, FEBRUARY 15, 2001

H020458 GALLO v. MILES, et al.

The judgment is affirmed. (not published)  
(Premo, Acting P.J.; We concur: Bamattre-Manoukian, J.,  
Wunderlich, J.)  
Filed February 15, 2001

In The Court Of Appeal Of The State Of California 31  
Sixth Appellate District  
San Jose, California

Thursday, February 15, 2001 (continued)

H020900 SAVE OUR PENINSULA COMMITTEE, et al. v. MONTEREY COUNTY  
BOARD OF SUPERVISORS; SEPTEMBER RANCH PARTNERS, et al.  
H020933 SIERRA CLUB, et al. v. COUNTY OF MONTEREY, et al.;  
SEPTEMBER RANCH PARTNERS, et al.

The judgment granting a peremptory writ of mandate is reversed in part and affirmed in part. The matter is remanded to the superior court with directions that the court issue a new writ of mandate ordering the Monterey County Board of Supervisors to vacate Resolution No. 98-500, including the approval of any permits or entitlements for the project described in that Resolution, and to vacate the certification of the Environmental Impact Report prepared in regard to the project. The Board shall be ordered not to take any further action to approve the project without the preparation, circulation and consideration under CEQA of a legally adequate Environmental Impact Report with regard to the water issues discussed in this opinion.

The revised Environmental Impact Report is to investigate and analyze the baseline water conditions on the property at or around the time of the commencement of the environmental review process for this project. Baseline water figures shall reflect actual water use on the property, where possible, and methodologies for determining baseline shall be supported by evidence of actual water use on the property or, where no documentation is available, by good faith estimates of actual historical use.

The revised Environmental Impact Report is to discuss and analyze the growth-inducing impact of mitigating increased pumping over baseline with off-site pumping reduction, including the loss of agricultural lands, and specifically the feasibility of a pumping offset on the Berube property, including water availability and pumping history on the Berube property and whether there is an actual nexus between reduced pumping on that property and increased pumping on the September Ranch property.

In The Court Of Appeal Of The State Of California 32  
Sixth Appellate District  
San Jose, California

Thursday, February 15, 2001 (continued)

H020900 SAVE OUR PENINSULA COMMITTEE, et al. v. MONTEREY COUNTY  
BOARD OF SUPERVISORS; SEPTEMBER RANCH PARTNERS, et al.  
H020933 SIERRA CLUB, et al. v. COUNTY OF MONTEREY, et al.;  
SEPTEMBER RANCH PARTNERS, et al.  
(continued)

The revised Environmental Impact Report is to discuss and analyze the asserted riparian right of the applicants, including whether such a right has been established, whether it entitles the applicants to an expanded use of water in derogation of the rights of other water users in the area, whether such a right may support a mutual water system serving the entire subdivision, and whether the utilization of riparian rights may result in a growth-inducing impact.

The portion of the superior court's judgment granting a writ of mandate and directing that the Board prepare a revised Environmental Impact Report to include further discussion regarding mitigation of traffic impacts is reversed.

The superior court's order awarding attorney fees is hereby vacated. Upon remand, the court may issue a new order, in light of our disposition herein, or may reinstate the same order.

The parties are to bear their own costs on appeal.  
(published)  
(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J.,  
Wunderlich, J.)  
Filed February 15, 2001

H021294 SMITH v. McCANN

The order denying appellant's motion to stay this action and petition to compel arbitration is reversed with directions to enter an order granting the motion and petition. Appellant shall recover his costs on appeal. (not published)  
(Cottle, P.J.; We concur: Elia, J., Mihara, J.)  
Filed February 15, 2001

In The Court Of Appeal Of The State Of California 33  
Sixth Appellate District  
San Jose, California

Thursday, February 15, 2001 (continued)

H020068 H&H BAIL BONDS, INC. v. CALIFORNIA FEDERAL BANK, et al.

The order denying plaintiff's application for a preliminary injunction is affirmed. Respondents shall recover their costs on appeal. (not published)

(Cottle, P.J.; We concur: Elia, J., Mihara, J.)

Filed February 15, 2001

FRIDAY, FEBRUARY 16, 2001

H020734 PEOPLE v. BERNAL

The judgment is modified to strike the reference to a restitution fine and fees. In all other respects, the judgment is affirmed. (not published)

(Mihara, J.; We concur: Cottle, P.J., Elia, J.)

Filed February 16, 2001

H021759 IN RE CRYSTAL J.; SANTA CRUZ COUNTY HUMAN RESOURCES v. BARBARA J.

The judgment is affirmed. (not published)

(Mihara, J.; We concur: Premo, Acting P.J., Elia, J.)

Filed February 16, 2001

H020744 PEOPLE v. TYLER

The judgment is affirmed. (not published)

(Mihara, J.; We concur: Cottle, P.J., Elia, J.)

Filed February 16, 2001

H020262 PEOPLE v. CASILLAS

The judgment is affirmed. (not published)

(Mihara, J.; We concur: Cottle, P.J., Elia, J.)

Filed February 16, 2001

H021584 PEOPLE v. FREEZE

The judgment is affirmed. (not published)

(Mihara, J.; We concur: Premo, Acting P.J., Elia, J.)

Filed February 16, 2001

In The Court Of Appeal Of The State Of California  
Sixth Appellate District  
San Jose, California

34

Friday, February 16, 2001 (continued)

H020276 PEOPLE v. WENDEMAGENGHEHU

The judgment is affirmed. (not published)  
(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J.,  
Wunderlich, J.)  
Filed February 16, 2001

H020636 PEOPLE v. ALVARADO

The judgment is affirmed. (published)  
(Wunderlich, J.; We concur: Premo, Acting P.J., Bamattre-  
Manoukian, J.)  
Filed February 16, 2001

H020206 PEOPLE v. SINGH, et al.

The judgments are affirmed. (not published)  
(Mihara, J.; We concur: Cottle, P.J., Elia, J.)  
Filed February 16, 2001